

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA)	
)	
v.)	No. 3:05-CR-50
)	
ARNOLD R. SCHMID and)	
KATHLEEN SCHMID)	

ORDER

This criminal case is before the court for consideration of the Report and Recommendation filed by the magistrate judge on September 27, 2005 [doc. 71]. The magistrate judge found the defendants' challenge as tax protestors to this court's subject matter and personal jurisdiction to be without merit.

Under 28 U.S.C. § 636(b), a *de novo* review by the district court of a magistrate judge's report and recommendation is both statutorily and constitutionally required. *See United States v. Shami*, 754 F.2d 670, 672 (6th Cir. 1985). However, it is necessary only to review "those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b); *see also United States v. Campbell*, 261 F.3d 628, 631-32 (6th Cir. 2001).

Subsequent to the filing of the Report and Recommendation, the defendants filed a “Verified Rebuttal Affidavit in the Truth,” which refers to the Report and Recommendation [doc. 79]. The defendants complain that the Report and Recommendation was “not signed in wet ink” and that the magistrate judge

makes many frivolous statements including but not limited to “the defendants’ claims appear to challenge the Court’s jurisdiction over their persons.” [The magistrate judge] is either out to deceive or is ignorant of his own de facto law that clearly defines a person as a legal fiction. As living, breathing, beings, how could we be legal fictions. Honeyed words and moral suasion will not change the fact that we ARE NOT the defendants.

The defendants go on to claim that they are “living souls” and not subject to the courts.

To the extent the defendants’ statements may be considered objections, the court finds them not well taken. The defendants have not come forward with any authority to support their “wet ink” argument or their argument that this court does not have jurisdiction over living souls.

The court has reviewed *de novo* the magistrate judge’s Report and Recommendation and the defendants’ pleading, and **ADOPTS** the Report and

Recommendation in its entirety. It is hereby **ORDERED** that the defendants' challenge to this court's subject matter and personal jurisdiction is **DENIED**.

ENTER:

s/ Leon Jordan
United States District Judge